IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1385 OF 2005
IN
NOTICE OF MOTION NO. 1623 OF 2004
IN
SUIT NO. 2297 OF 1993

1. Ramkumar Ramdev Maurya and 7 ors.] .. Plaintiffs

Versus

1. Nusli N. Wadia & 12 ors.] .. Defendants

Mr. Paritosh Jaiswal i/b Mayur Narendra & Co. for the plaintiffs.

Mr. M.C. Thakker i/b S.B. Amin for the defendants No.1, 2, 4 and 5.

Mr. Jayesh Patel i/b Bilawala & Co. for defendants No.8 to 13.

CORAM: ANOOP V. MOHTA, J.

DATED: 18TH MARCH, 2006

P.C. :

. Considering the averments made in support of this Notice of Motion, I am inclined to restore Notice of Motion No. 1623 of 2004 which was dismissed for default on 14th April, 2005. The present Notice of Motion has been taken out on 30th April, 2005, and the impugned order of dismissal is of 15th April, 2005. Admittedly, there is no ad-interim relief granted in that Notice of Motion. In view of this, there is no

question of grant of any ad-interim relief in terms of prayer clauses (b) and (c) as prayed in this Notice of Motion. However, this Notice of Motion is allowed in terms of prayer clause (a) only, which reads thus:

> "(a) that the Order dated 15.4.2005 dismissing the Notice of Motion No.1623 of 2004 for default of Plaintiffs Advocate be set aside the same be restored on Board for being heard on merits."

Prayer clauses (b) and (c) are rejected. However, the restoration is subject to costs of Rs.1,000/- to be paid to defendants No.1, 2 4 & 5 in one set and separately to defendants No.6 to 13, as a condition precedent. All points are kept open.

2. Notice of Motion disposed of accordingly.

Sd/-
[ANOOP V. MOHTA, J.]